

**UNITED STATES DISTRICT COURT**  
**SOUTHERN DISTRICT OF GEORGIA**  
**SAVANNAH DIVISION**

WAYNE DEMARS HAMILTON,	)	
	)	
Plaintiff,	)	
	)	
v.	)	Case No. CV411-023
	)	
LARRY CHISOLM,	)	
	)	
Defendant.	)	

**REPORT AND RECOMMENDATION**

In one form or another, Wayne Demars Hamilton has misused this Court to try and jam up a state-court prosecution against him. *See Hamilton v. St. Lawrence*, CV411-007 doc. 3 (S.D. Ga. Jan. 26, 2011) (advising dismissal of his 28 U.S.C. § 2254 petition as unexhausted, noting earlier-dismissed § 2254 petition for the same reason), *adopted*, doc. 7; *see also* doc. 8 (judgment dismissing that case); *Hamilton v. Martin*, CV410-201 (S.D. Ga. Dec. 10, 2010) (advising dismissal of 42 U.S.C. § 1983 action because it challenged same prosecution and thus sounded in habeas, and unexhausted at that), *adopted*, doc. 12; *see also* doc. 13 (judgment dismissing that case).

Hamilton's latest attempt arises in this § 1983 case, CV411-023, which he styles as a "Complaint in Federal Court for injunction to prevent a bad faith prosecution." Doc. 1. He couples that filing with a motion for leave to proceed *in forma pauperis* (IFP). Doc. 2. Except that this time Hamilton is not in jail or prison, doc. 3, so he is not subject to the Prison Litigation Reform Act's requirements. 28 U.S.C. § 1915(a)(2).

But even if he could get past all of the legal barriers still confronting him (*once again*, he must exhaust state court remedies before invoking this Court's power), events have overtaken and thus mooted this case since he filed it on February 7, 2011: The state's case against him has been dismissed. *See* attached state court docket entry for "2/11/11 Order of Dismissal For Failure To Prosecute."

Thus, although the Court **GRANTS** Hamilton's IFP motion, doc. 2, his case should be **DISMISSED WITHOUT PREJUDICE** on mootness grounds.

**SO REPORTED AND RECOMMENDED**, this 8th day of March, 2011.

  
UNITED STATES MAGISTRATE JUDGE  
SOUTHERN DISTRICT of GEORGIA